



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-720
Regulation Title:	Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces
Action Title:	Revise Definition of Founded Disposition
Date:	August 14, 2002

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

This final regulation is identical to the proposed regulation. It establishes guidelines for mandatory sharing of information on founded child abuse/neglect complaints in military families to the Family Advocacy Program.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On August 14, 2002, the Virginia Department of Social Services approved final changes in the language of this regulation, 22 VAC 40-720-10 et seq., Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

This action is the result of an approved Executive Order 25 (1988) regulation review. The statutory authority for promulgating this regulation is found in Title 63.1 Welfare (Social Services) of the Code of Virginia. Chapter 12.1, Section 63.1-248 et seq. of the Virginia Code places responsibility for providing protective services for children with the Department of Social Services. Chapter 1, Section 63.1-25 places authority with the Board of Social Services to make rules and regulations consistent with the Virginia Code Section 63.1-248.1 et seq.

The Office of the Attorney General has reviewed these regulations and has certified that the agency has the statutory authority to promulgate regulations and that they comport with applicable state and federal laws. The authority is mandatory. With these amendments, this regulation will not exceed the scope of the mandate.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

Amendments are necessary to this regulation to ensure that this regulation is consistent with the regulation entitled Child Protective Services (22 VAC 40-705-10 et seq.), which requires “preponderance of the evidence” for founded disposition.

During the 1980's Department of Defense began recognizing that family problems were having an adverse effect on readiness, retention and quality military performance. Family Advocacy Program (FAP) was promulgated as a response to this problem. Now in its sixteenth year, it has been successful in helping prevent child and spouse abuse in military families, and has also been successful in protecting victims when child or spouse abuse has occurred, as well as in treating both the victims and the abusers.

The Department of Defense Directive 6400.1 mandates, in part, the requirements that the military notify local departments of social services as well as the military law enforcement in cases of suspected child abuse; it encourages local commands to develop memoranda of understanding providing for cooperation and reciprocal reporting of information with the appropriate civilian officials.

Before this regulation was implemented in 1994, previous policy permitted information sharing between local agencies and Family Advocacy Programs on a discretionary basis. This discretion resulted in some military families not being tracked, and/or children at risk in these families not receiving needed services for protection purposes.

This regulation appears to be in the best interest of children at risk by mandating the sharing of information in founded cases of child abuse/neglect between the local department of social services and the Family Advocacy Program. It allows the military to provide treatment and to follow the family even when the family moves to a new state or out of the country.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

This regulation provides the local department with the authority to release information to a representative of the Family Advocacy Program. Information regarding child protective services reports, complaints, investigations and related services and follow-up shall be shared with the appropriate Family Advocacy Program representative of the United States Armed Forces when the local agency determines such release to be in the best interest of the child. 22 VAC 40-720-10 applies to instances where the alleged abuser or neglecter is a member (or the spouse of a member) of the United States Armed Forces. In these situations, coordination between child protective services and the Family Advocacy Program is intended to facilitate identification, treatment and service provision to the military family.

In founded complaints, 22 VAC 40-720-10 is specific about the information that shall be provided to the Family Advocacy Program, so the definition of "founded" will be corrected through this amendment.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to this final regulatory action is that it will make this regulation consistent with the standard of evidence now required in separate child protective services regulations for a founded complaint. There are no disadvantages to updating this regulation - to the public or the Commonwealth.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

The final regulation is identical to the proposed regulation, with no changes since the publication of the proposed regulation.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

No public comment was received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

The changes to this regulation occur in Section 10, Definitions. The final regulation will conform the definition of "founded" in this regulation to the definition of "founded" in the Child Protective Services regulation (22 VAC 40-705), which requires "preponderance of the

evidence" for a founded definition. In addition, Title 63.1 of the Code of Virginia citation, § 63.1-248 is updated to the latest cite of § 63.1-248.1.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation will continue to be successful in helping prevent child and spousal abuse in military families, and will also continue to be successful in protecting victims when child or spouse abuse has occurred, as well as in treating both the victims and the abusers. This regulation will assist in precluding child abuse problems in military families as having an adverse effect on readiness, retention and quality military performance. It will help strengthen the marital commitment in military families, along with facilitating the education, nurturing and supervision of military children at risk of child abuse and neglect; it will have no impact on economic self-sufficiency, disposable family income or other economic impact.